

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/988,036	YABUCHI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Cynthia Hamilton	1752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to amendment filed January 28, 2004.
2.  The allowed claim(s) is/are 1-12.
3.  The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All b)  Some\* c)  None of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other Non-Compliance letter.



3-8-2004

CYNTHIA HAMILTON  
PRIMARY EXAMINER

Cynthia Hamilton  
Primary Examiner  
Art Unit: 1752

#### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Donald E. Townsend, Jr. on March 8, 2004. This amendment reflects the unenterable non-compliant amendment submitted January 28, 2004. To avoid another delay, the examiner offered to make the needed changes by examiner's amendment and allow this application. The amendment document filed on January 28, 2003 is considered non-compliant because it has failed to meet the requirements of CFR 1.121, as amended on June 30, 03 (see 68 Fed Req. 38611, Jun. 30, 2003). The examiner has agreed to enter all of applicant's desired changes to the claims submitted by Examiner's Amendment. However, the amendment to the claims of January 28, 2003 cannot be entered and will not be entered because of the following non-compliance. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Claims 1-5 and 11 were incorrectly identified as (Allowed). This is not one of the status identifiers required. For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognitice/officeflyer.pdf>. In view of the following examiner's amendment, there is no need to file a compliant amendment to the claims.

The application has been amended as follows:

In claim 6, line 1, cancel "The" and replace with --- An ---, cancel "type".

In claim 6, line 2, cancel "according to claim 1, wherein" and replace with --- obtained by neutralizing ---, and after "(A)" insert --- according to claim 1 ---, and cancel "is".

In claim 6, line 3, cancel "neutralized by" and replace with --- with ---, and after "base", cancel "and made" and replace with --- to be ---

In claim 7, line 1, cancel "type".

In claim 8, line 1, cancel "type".

In claim 9, line 1 cancel "type", and in claim 9, line 2, cancel "claims" and replace with "claim".

In claim 10, line 1, cancel "type".

2. Claim 6 is directed to an allowable product. Pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86), claim 12, directed to the process of making or using the patentable product, previously withdrawn from consideration as a result of a restriction requirement, is now subject to being rejoined. Claim 12 is hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Since all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, the restriction requirement made in Paper No. 6 is hereby withdrawn.

*Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia Hamilton whose telephone number is 571-272-1331. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm.*

*If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff, can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.*

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*Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).*

March 8, 2004



CYNTHIA HAMILTON  
PRIMARY EXAMINER

Cynthia Hamilton  
Primary Examiner  
Art Unit 1752

### **Notice of Non-compliant Amendment (37 CFR 1.121)**

The amendment document filed on January 28, 2003 is considered non-compliant because it has failed to meet the requirements of CFR 1 . 121, as amended on June 30, 03 (see 68 Fed Req. 38611, Jun. 30, 2003). The examiner has agreed to enter all of applicant's desired changes to the claims submitted by Examiner's Amendment. However, the amendment to the claims of January 28, 2003 cannot be entered and will not be entered because of the following non-compliance.

#### **1. Amendments to the claims:**

Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Claims 1-5 and 11 were incorrectly identified as (Allowed). This is not one of the status identifiers required. For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognitice/officeflyer.pdf>.

In view of the Examiner's amendment and applicant's agreement to such, the filing of a compliant amendment of the claims is not required.

Primary Examiner Cynthia Hamilton

Art Unit 1752

March 8, 2003



CYNTHIA HAMILTON  
PRIMARY EXAMINER